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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/594,540

09/27/2006

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EXAMINER

ROJAS, BERNARD

ART UNIT

PAPER NUMBER

2832

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/594,540	Applicant(s) HASHIMOTO, HISAJIRO	
	Examiner BERNARD ROJAS	Art Unit 2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 7-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 7-12 and 14-16 is/are rejected.
- 7) ☒ Claim(s) 13 and 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09272006 08132007</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 7, 8, 10-12 and 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Fuhrman et al. [US 7,073,232].

Claim 1, Fuhrman et al. discloses a clamping tool [figure 4] for chain ends of an accessory in which a holder [14] provided at one end of a chain portion of the accessory is engaged with a holder receiver [12] provided at the other end of the chain portion to be interlocked with each other, wherein the holder and the holder receiver are respectively provided as attracting members with magnets [20, 22, 24, 26] attracting each other or with a magnet and a metal material attracted by the magnet at positions capable of guiding the holder and the holder receiver to a proper engaging location. It has been held that the recitation that the element is “capable of” performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 1338.

Claim 7, Fuhrman et al. discloses the clamping tool of chain ends of an accessory according to Claim 1, wherein the accessory is a necklace, a bracelet or an anklet [col. 4 lines 22-25].

Claim 8, Fuhrman et al. discloses the clamping tool of chain ends of an accessory according to Claim 1, wherein the chain portion is a member formed from a chain, a string, a belt, yarn or a comparatively small number of stick-shaped bodies unfixedly connected [chain, col. 4 lines 22-25].

Claim 10, Fuhrman et al. discloses the clamping tool of chain ends of an accessory according to Claim 1, wherein the holder and the holder receiver form a mechanism that engagement of the holder and the holder receiver enables interlock of the clamping tool to be achieved [figure 4] while releasing the engagement allows the clamping tool to be released [figure 2].

Claim 11, Fuhrman et al. discloses the clamping tool of chain ends of an accessory according to Claim 1, wherein the holder is a spring-close type alligator clip [figure 2] in which a pair of jaw members [14, 28] is rotatably held so as to be able to be opened [figure 2] and closed [figure 4] and the holder receiver is an interlocking member [interlock means 34] fitted in between the pair of opening jaw members to be interlocked [figure 4].

Claim 12, Fuhrman et al. discloses the clamping tool of chain ends of an accessory according to Claim 11, wherein the alligator clip is a nonintersecting alligator clip having the pair of jaw members rotatably held substantially in parallel [figures 2 and 4].

Claim 14, Fuhrman et al. discloses the clamping tool of chain ends of an accessory according to Claim 11, wherein one attracting member [24, 26] is provided in the alligator clip and the other attracting member [20, 22] is provided at a tip of the interlocking member.

Claim 15, Fuhrman et al. discloses the clamping tool of chain ends of an accessory according to Claim 11, wherein an attracting member [24, 26] provided in the alligator clip is fixed to any one of the pair of jaw members or a holding member for holding the attracting member is held on a holding shaft for rotatably holding the pair of jaw members [figure 2 and 4].

Claim 16, Fuhrman et al. discloses the clamping tool of chain ends of an accessory according to Claim 11, wherein an attracting member provided in the alligator clip or holding member for holding the attracting member is connected to the pair of jaw

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members by means of a linking arm [30] to form a link mechanism in which the attracting member operates to project from an opening in opening the pair of jaw members.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuhrman et al. [US 7,073,232].

Claim 9, Fuhrman et al. discloses the claimed invention except for the material the jewelry chain of. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct a jewelry chain from metals and precious stones since it was known in the art that jewelry chains are constructed from metals and precious stones.

Allowable Subject Matter

Claims 13 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BERNARD ROJAS whose telephone number is (571)272-1998. The examiner can normally be reached on M and W-F, 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elvin G Enad/
Supervisory Patent Examiner, Art Unit 2832

Br
/Bernard Rojas/
Examiner, Art Unit 2832